

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Bickers et al.
Serial No.: 10/049,410
Filed: 02/07/2002
For: **HERBICIDAL COMPOSITIONS COMPRISING POST-EMERGENCE HERBICIDES FOR SOIL APPLICATION**
Examiner: Pryor, Alton Nathaniel
Art Unit: 1616

DECLARATION

I, Udo Bickers, state that I reside at – Suedstr. 2, 49835 Wietmarschen – I am a citizen of the Federal Republic of Germany; that I am familiar with the subject matter and the prosecution of the instant application Serial No. 10/146,538 filed May 2, 2002, titled **HERBICIDAL COMPOSITIONS COMPRISING POST-EMERGENCE HERBICIDES FOR SOIL APPLICATION**; that I consider myself qualified by my education, knowledge and many years of experience in agricultural chemistry to make this Declaration, and that I have made the following observations:

1. The instantly claimed invention is directed to novel herbicidally active compositions comprising post-emergence herbicides which can be used as pre-emergence herbicides for soil application. In my opinion, the invention is clearly distinguishable from the compositions disclosed in the prior art.

2. The following tests have been carried out under my supervision and my control. Comparison trials were conducted under the same conditions as given in the specification under item "B. biological examples" using herbicidally active composition comprising the active ingredient paraquat (table A) or glyphosate (tables B and C). In the first line of each table there is given the herbicidal activity of a composition according to present invention. The second line of each table gives the herbicidal activity of the corresponding prior art composition.

The abbreviations for weeds used herein denote:

BRSNW Brassica napus

CYPES

Cyperus esculentus

LOLMU Lolium multiflorum

Table A: paraquat

Herbicide	Typ of formulation	Application rate of herbicide [g/ha]	Herbicidal activity against	
			BRSNW	LOLMU
paraquat	example no. 46 according to present invention	750	35%	25%
<i>paraquat</i>	<i>soluble liquid known from prior art</i>	750	0%	0%

Table B: glyphosate

Herbicide	Typ of formulation	Application rate of herbicide [g/ha]	Herbicidal activity against	
			BRSNW	
glyphosate	example no. 47 according to present invention	1500	40%	
<i>glyphosate</i>	<i>soluble liquid known from prior art</i>	1500	0%	

Table C: glyphosate

Herbicide	Typ of formulation	Application rate of herbicide [g/ha]	Herbicidal activity against	
			CYPES	
glyphosate	example no. 47 according to present invention	750	30%	
<i>glyphosate</i>	<i>soluble liquid known from prior art</i>	1500	0%	

3. The data presented in tables A to C reveal that herbicidal compositions according to the invention comprising post-emergent herbicides in admixture with certain auxiliary carriers surprisingly show herbicidal activity when used under pre-emergent conditions. The same herbicides formulated as compositions known from prior art do not show any herbicidal activity when used under pre-emergent conditions.

4. Therefore, it is my opinion that the instant invention is clearly different from and is not obviated by the teachings of *Nayaranan et al.* (US 5,231,070) and *Sanders et al.* (US 5,635,447).

5. I conclude that the combinations according to the instant invention are significantly and unexpectedly superior to that of *Nayaranan et al.* and *Sanders et al.*

I declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Dated this 26th day of September, 2005

Signed:

